

FILED

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RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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*Attorney for Plaintiff Elizabeth Cox  
and the Proposed Class*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

**ELIZABETH COX**, as an individual, and on  
behalf of all others similarly situated,

Civil No. **12**

**6502**

*Plaintiff,*

vs.

**GRUMA CORPORATION**, a Nevada  
corporation,

*Defendant.*

**: CLASS ACTION COMPLAINT FOR:**  
: 1. Violations of Cal. Bus. & Prof. C. §§ 17200,  
: *et seq.*  
: 2. Violations of Cal. Bus. & Prof. C. §§ 17500,  
: *et seq.*  
: 3. Violations of Cal. Civ. C. §§ 1750, *et seq.*  
:  
: **California Class Representation**  
: **Jury Trial Requested**

Plaintiff, ELIZABETH COX, by and through her undersigned counsel, hereby files this  
Class Action Complaint, individually, and on behalf of all others similarly situated—and makes  
these allegations based on information and belief and/or which are likely to have evidentiary  
support after a reasonable opportunity for further investigation and discovery—against  
Defendant, Gruma Corporation (“GRUMA” or “Defendant”), as follows:

**I. INTRODUCTION**

1. Defendant has made false, misleading statements that are likely to deceive  
reasonable consumers.

2. Defendant has mistakenly or misleadingly represented that its Mission® Tortilla chips (the “Product”) are “All Natural,” when in fact, it is not, because it contains Genetically Modified Organisms (“GMOs”) in the form of corn and/or corn derivatives.

3. The Product is sold in the following four (4) shape varieties:

- 1) Mission® Restaurant Style Tortilla Rounds;
- 2) Mission® Restaurant Style Tortilla Strips;
- 3) Mission® Restaurant Style Tortilla Triangles; and
- 4) Mission® Super Thin Tortilla Chips.

4. Defendant’s “All Natural” statement prominently displayed on the Product’s packaging and/or labeling is false, misleading, and likely to deceive reasonable consumers, such as Plaintiff and members of the Class, because the Product is not “All Natural,” due to the presence of corn and/or corner derivative GMOs.

5. GMOs are plants that grow from seeds in which DNA splicing has been used to place genes from another source into a plant. Contrary to Defendant’s express or implied representations, the Product uses plants or plant derivatives grown or created from GMOs.

## **II. VENUE AND JURISDICTION**

6. This Court has jurisdiction over the subject matter presented by this Complaint because it is a class action arising under the Class Action Fairness Act of 2005 (“CAFA”), Pub. L. No. 109-2, 119 Stat. 4 (2005), which explicitly provides for the original jurisdiction of the Federal Courts of any class action in which any member of the plaintiff class is a citizen of a state different from any Defendant, and in which the matter in controversy exceeds in the aggregate the sum of \$5,000,000.00, exclusive of interest and costs.

1           7.       Plaintiff alleges that the total claims of the individual members of the Plaintiff  
2 Class in this action are in excess of \$5,000,000.00 in the aggregate, exclusive of interest and  
3 costs, as required by 28 U.S.C. § 1332(d)(2), (5).  
4

5           8.       As set forth below, Plaintiff is a citizen of California, and GRUMA can be  
6 considered a citizen of Nevada or Texas. Therefore, diversity of citizenship exists under CAFA  
7 and diversity jurisdiction, as required by 28 U.S.C. §§ 1332(a)(1), (d)(2)(A). Furthermore,  
8 Plaintiff alleges on information and belief that more than two-thirds of all of the members of the  
9 proposed Plaintiff Class in the aggregate are citizens of a state other than California, where this  
10 action is originally being filed, and that the total number of members of the proposed Plaintiff  
11 Class is greater than 100, pursuant to 28 U.S.C. § 1332(d)(5)(B).  
12

13           9.       Venue in this judicial district is proper pursuant to 28 U.S.C. §1391(a) because,  
14 as set forth below, Defendant conducts business in, and may be found in, this district, and  
15 Plaintiff purchased the subject Product of this action in this judicial district. The “Declaration  
16 of Benjamin M. Lopatin, Esq., Pursuant to Civil Code §1780(c) of the Consumer Legal  
17 Remedies Act, Civil Code §§1750 et seq.” regarding venue under the California Consumer  
18 Legal Remedies Act (“CLRA”) is submitted herewith and is incorporated herein by reference.  
19  
20

### 21                               **III. PARTIES**

22           10.       Plaintiff is an individual more than 18 years old, and is a citizen of California,  
23 who resides in the city and County of San Francisco. Plaintiff respectfully requests a jury trial  
24 on all damage claims.

25           11.       During August of 2012, from a Safeway supermarket located in San Francisco,  
26 California, Plaintiff purchased Gruma’s All Natural Mission® Tortilla Triangles, which contain  
27  
28

1 GMOs in the Ground Corn Treated with Lime and Corn Oil ingredients. See Exhibit 1,  
2 *Scanned Copy of Product packaging/labeling*, attached hereto and incorporated herein.

3  
4 12. In purchasing the Product, Plaintiff read and relied on the material statement that  
5 the Product is "All Natural." For example, Plaintiff purchased the Product believing it to be  
6 "All Natural" because she read and relied on Gruma's material statement that the Product is "All  
7 Natural," prominently displayed on the Product's front and rear labeling/packaging. Plaintiff  
8 has been damaged by her purchase of the Product because the labeling and advertising for the  
9 Product was and is false and/or misleading under California law; therefore, the Product is worth  
10 less than what Plaintiff paid for it and/or Plaintiff did not receive what she reasonably intended  
11 to receive when purchasing the Product.

12  
13 13. Defendant, Gruma, Inc. ("Gruma") is a Nevada licensed corporation with its  
14 principal place of business located in the State of Texas, at 1159 Cottonwood Lane, Suite 200,  
15 Irving, Texas 75038. Gruma lists with the California Secretary of State a Registered Agent  
16 designated as CSC, located at 2710 Gateway Oaks Drive, Suite 150N, Sacramento, California  
17 95833. Therefore, Gruma can be considered a "citizen" of the State of Nevada or Texas.

18  
19 14. GRUMA is the owner, manufacturer and distributor of the Product, and is the  
20 company that created and/or authorized the false, misleading and deceptive labeling and  
21 advertising for the Product and is the company that promoted, marketed, and sold the Product at  
22 issue in this judicial district.

23  
24 15. The labeling and advertising for the Product relied upon by Plaintiff was  
25 prepared and/or approved by GRUMA and its agents, and was disseminated by GRUMA and its  
26 agents through labeling and advertising containing the misrepresentations alleged herein. The  
27  
28

1 labeling and advertising for the Product was designed to encourage consumers to purchase the  
2 Product and reasonably misled the reasonable consumer, i.e. Plaintiff and the Class.

3         16. Plaintiff alleges that, at all relevant times, GRUMA and its subsidiaries,  
4 affiliates, and other related entities, as well as their respective employees, were the agents,  
5 servants and employees of GRUMA, and at all relevant times, each acted within the purpose and  
6 scope of that agency and employment. Plaintiff further alleges on information and belief that at  
7 all times relevant herein, the distributors and retailers who delivered and sold the Product, as  
8 well as their respective employees, also were Gruma's agents, servants and employees, and at  
9 all times herein, each was acting within the purpose and scope of that agency and employment.  
10

11         17. Additionally, Plaintiff alleges that, in committing the wrongful acts alleged  
12 herein, GRUMA, in concert with its subsidiaries, affiliates, and/or other related entities and their  
13 respective employees, planned, participated in and furthered a common scheme to induce  
14 members of the public to purchase the Product by means of false, misleading, deceptive and  
15 fraudulent representations, and that GRUMA participated in the making of such representations  
16 in that it disseminated those misrepresentations and/or caused them to be disseminated.  
17

18         18. Whenever reference in this Complaint is made to any act by GRUMA or its  
19 subsidiaries, affiliates, distributors, retailers and other related entities, such allegation shall be  
20 deemed to mean that the principals, officers, directors, employees, agents, and/or representatives  
21 of GRUMA committed, knew of, performed, authorized, ratified and/or directed that act or  
22 transaction on behalf of GRUMA while actively engaged in the scope of their duties.  
23

#### 24                                 **IV. FACTUAL ALLEGATIONS**

25         19. GRUMA manufactures, distributes, markets, advertises, and sells the Product,  
26 Mission® Tortilla chips.  
27  
28

1           20.     The Product claims to be "All Natural," when in fact, it is not, because it contains  
2     GMOs in the form of corn and/or corn derivatives within its ingredients.

3           21.     Defendant's "All Natural" statement prominently displayed on the Product's  
4     packaging and/or labeling is false, misleading, and likely to deceive reasonable consumers, such  
5     as Plaintiff and members of the Class, because the Product is not "All Natural," due to the  
6     presence of GMOs.

7           22.     GMOs are plants that grow from seeds in which DNA splicing has been used to  
8     place genes from another source into a plant. Contrary to Defendant's express or implied  
9     representations, the Product uses plants or plant derivatives grown or created from GMOs.

10          23.     The Product is not "All Natural." Genetically modified corn products contain  
11     genes and/or DNA that would not normally be in them, and are thus not natural, thereby causing  
12     the Product to fail to be "All Natural."

13          24.     Defendant manufactures, markets, advertises, distributes and sells the Product in  
14     stores located throughout the State of California and in this judicial district claiming to be "All  
15     Natural;" specifically, on the front labeling or packaging for the Product.

16          25.     As a result, through a variety of advertising, including but not limited to the  
17     packaging and labeling of the Product, GRUMA has made false and misleading material  
18     statements and representations regarding the Product that have been relied upon by Plaintiff and  
19     members of the Class.

20          26.     Simply put, the Product contains GMOs and is thus not "All Natural."  
21     Therefore, Defendant's advertising and labeling statement that the Product is "All Natural" is  
22     deceptive and likely to mislead reasonable consumers, such as Plaintiff and members of the  
23     Class.

1           27. Plaintiff, like members of the Class, purchased the Product relying on the  
2 material misrepresentation that it was "All Natural" at the time of purchase.

3           28. Plaintiff based her purchase upon Gruma's material statement that the Product  
4 was "All Natural," which she read on the front labeling of the Product, and relied upon prior to  
5 making her purchase.  
6

7           29. Plaintiff would not have purchased the Product if she had known that the  
8 Defendant's Product is not "All Natural" because it contains GMOs.

9           30. Plaintiff and members of the Class have been economically damaged by their  
10 purchase of the Product because it is not "All Natural."  
11

12           31. At a minimum, Plaintiff contends that Defendant should cease labeling the  
13 Product "All Natural."

14           32. Plaintiff therefore brings this class action to secure, among other things, equitable  
15 relief and actual damages, statutory damages, and punitive damages for the Class against  
16 GRUMA for false and misleading advertising in violation of California's Consumer Legal  
17 Remedies Act ("CLRA"), Cal. Civ. Code §§ 1750 *et seq.*, California's Unfair Competition Law  
18 ("UCL"), Bus. & Prof. Code §§ 17200 *et seq.*; and California's False Advertising Law ("FAL"),  
19 Bus. & Prof. Code §§ 17500 *et seq.*  
20  
21

## 22                                   **V. CLASS ACTION ALLEGATIONS**

23           43. Plaintiff re-alleges and incorporates by reference the allegations set forth in each  
24 of the preceding paragraphs of this Complaint.

25           44. Pursuant to Cal. Civ. Code § 1781, Cal. Code of Civil Procedure § 382 and  
26 Federal Rule of Civil Procedure 23, Plaintiff brings this class action and seeks certification of  
27 the claims and certain issues in this action on behalf of a Class defined as:  
28



1           **all California persons who have purchased Gruma's Mission®**  
2           **All Natural Restaurant Style Tortilla Rounds, Mission® All**  
3           **Natural Restaurant Style Tortilla Strips, Mission® All Natural**  
4           **Restaurant Style Tortilla Triangles, or Mission® All Natural**  
5           **Super Thin Tortilla Chips, containing corn ingredients, for**  
6           **personal use, during the period extending from December 3,**  
7           **2008, through and to the filing date of this Complaint.**

8           45. Plaintiff reserves the right to amend the Class definition if further investigation  
9           and discovery indicates that the Class definition should be narrowed, expanded, or otherwise  
10          modified. Excluded from the Class are governmental entities, Defendant, any entity in which  
11          Defendant has a controlling interest, and Defendant's officers, directors, affiliates, legal  
12          representatives, employees, co-conspirators, successors, subsidiaries, and assigns. Also  
13          excluded from the Class is any judge, justice, or judicial officer presiding over this matter and  
14          the members of their immediate families and judicial staff.

15          46. Defendant's practices and omissions were applied uniformly to all members of  
16          the Class, including any subclass arising out of the California statutory claims alleged herein, so  
17          that the questions of law and fact are common to all members of the Class and any subclass.

18          47. All members of the Class and any subclass were and are similarly affected by the  
19          deceptive labeling of the Product, and the relief sought herein is for the benefit of Plaintiff and  
20          members of the Class and any subclass.

21          48. Based on the annual sales of the Product and the popularity of the Product, it is  
22          apparent that the number of consumers in both the Class and any subclass is so large as to make  
23          joinder impractical, if not impossible.

24          49. Questions of law and fact common to the Plaintiff Class and any subclass exist  
25          that predominate over questions affecting only individual members, including, inter alia:  
26  
27  
28



- a. Whether Defendant's practices and representations related to the marketing, labeling and sales of the Product were unfair, deceptive and/or unlawful in any respect, thereby violating Cal. Bus. & Prof. Code §§ 17200 *et seq.*;
- b. Whether Defendant's practices and representations related to the marketing, labeling and sales of the Product were unfair, deceptive and/or unlawful in any respect, thereby violating Cal. Bus. & Prof. Code §§ 17500 *et seq.*;
- c. Whether Defendant's practices and representations related to the marketing, labeling and sales of the Product in California were unfair, deceptive and/or unlawful in any respect, thereby violating Cal. Civil Code §§ 1750 *et seq.*; and
- d. Whether Defendant's conduct as set forth above injured consumers and if so, the extent of the injury.

50. The claims asserted by Plaintiff in this action are typical of the claims of the members of the Plaintiff Class and any subclass, as the claims arise from the same course of conduct by Defendant, and the relief sought within the Class and any subclass is common to the members of each.

51. Plaintiff will fairly and adequately represent and protect the interests of the members of the Plaintiff Class and any subclass.

52. Plaintiff has retained counsel competent and experienced in both consumer protection and class action litigation.

53. Certification of this class action is appropriate under Cal. Civ. Code § 1781, Cal. Code of Civil Procedure § 382 and Federal Rule of Civil Procedure 23 because the questions of law or fact common to the respective members of the Class and any subclass predominate over

1 questions of law or fact affecting only individual members. This predominance makes class  
2 litigation superior to any other method available for a fair and efficient decree of the claims.

3 54. Absent a class action, it would be highly unlikely that the representative Plaintiff  
4 or any other members of the Class or any subclass would be able to protect their own interests  
5 because the cost of litigation through individual lawsuits might exceed expected recovery.  
6

7 55. Certification also is appropriate because Defendant acted, or refused to act, on  
8 grounds generally applicable to both the Class and any subclass, thereby making appropriate the  
9 relief sought on behalf of the Class and any subclass as respective wholes. Further, given the  
10 large number of consumers of the Product, allowing individual actions to proceed in lieu of a  
11 class action would run the risk of yielding inconsistent and conflicting adjudications.  
12

13 56. A class action is a fair and appropriate method for the adjudication of the  
14 controversy, in that it will permit a large number of claims to be resolved in a single forum  
15 simultaneously, efficiently, and without the unnecessary hardship that would result from the  
16 prosecution of numerous individual actions and the duplication of discovery, effort, expense and  
17 burden on the courts that individual actions would engender.  
18

19 57. The benefits of proceeding as a class action, including providing a method for  
20 obtaining redress for claims that would not be practical to pursue individually, outweigh any  
21 difficulties that might be argued with regard to the management of this class action.  
22

23 **VI. FIRST CAUSE OF ACTION:**  
24 **VIOLATIONS OF CAL. BUS & PROF. CODE §§ 17200 ET SEQ.**

25 58. Plaintiff re-alleges and incorporates by reference the allegations set forth in the  
26 each of the preceding paragraphs of this Complaint.  
27  
28

1           59. This cause of action is brought on behalf of Plaintiff and members of the general  
2 public pursuant to Cal. Bus. & Prof. Code §§ 17200 *et seq.*, which provides that “unfair  
3 competition shall mean and include any unlawful, unfair or deceptive business act or practice  
4 and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter I  
5 (commencing with Section 17500) as Part 3 of Division 7 of the Business and Professions  
6 Code.”  
7

8           60. Defendant has violated the Act by engaging in the unfair and deceptive practices  
9 described above, which offend public policies and are immoral, unethical, unscrupulous and  
10 substantially injurious to consumers. Specifically, Defendant has represented that the Product is  
11 “All Natural,” when in fact, it is not, because it contains GMOs in the form of corn and/or corn  
12 derivatives.  
13

14           61. Plaintiff alleges that Defendant committed unfair business acts and/or practices,  
15 as set forth in detail above. The utility of Defendant’s practices related to the deceptive labeling  
16 and advertising of the Product is negligible, if any, when weighed against the harm to the  
17 general public.  
18

19           62. The harmful impact upon members of the general public who purchased and used  
20 the Product outweighs any reasons or justifications by Defendant for the deceptive labeling and  
21 advertising practices employed to sell the Product that misleadingly claims to be “All Natural.”  
22

23           63. Defendant had an improper motive (profit before accurate marketing) in its  
24 practices related to the deceptive labeling and advertising of the Product, as set forth above.

25           64. The use of such unfair business acts and practices was and is under the sole  
26 control of Defendant, and was deceptively hidden from members of the general public in  
27 Defendant’s marketing, advertising and labeling of the Product.  
28

1           65. Defendant committed a deceptive act or practice by making the labeling and  
2 advertising representations set forth in detail above. These deceptive acts and practices had a  
3 capacity, tendency, and/or were likely to deceive or confuse reasonable consumers.

4  
5           66. Defendant also committed an unlawful business practice by violating the FAL  
6 and CLRA as set forth in detail below. These violations serve as predicate violations of this  
7 prong of the UCL.

8           67. As a purchaser and consumer of Defendant's Product, and as a member of the  
9 general public who purchased and used the Product, Plaintiff is entitled to and does bring this  
10 class action seeking all available remedies under the UCL.

11  
12           68. Defendant's labeling and advertising practices, as set forth above, were intended  
13 to promote the sale of the Product and constitute unfair, deceptive and/or unlawful business  
14 practices within the meaning of California Bus. & Prof. Code §§ 17200 *et seq.*

15           69. Pursuant to California Bus. & Prof. Code § 17203, Plaintiff, on behalf of herself  
16 and members of the general public, seeks an order of this Court requiring Defendant to restore  
17 to Plaintiff and other purchasers of the Product all monies that may have been acquired by  
18 Defendant as a result of such unfair, deceptive and/or unlawful business acts or practices.

19  
20           70. Plaintiff and purchasers of the Product will be denied an effective and complete  
21 remedy in the absence of such an order.

22  
23           71. As a result of Defendant's violations of the UCL, Plaintiff and purchasers of the  
24 Product are entitled to restitution for out-of-pocket expenses and economic harm.

25           72. Pursuant to Civil Code § 3287(a), Plaintiff and purchasers of the Product are  
26 further entitled to pre-judgment interest as a direct and proximate result of Defendant's  
27 wrongful conduct.  
28

73. The amount on which interest is to be calculated is a sum certain and capable of calculation, and Plaintiff and purchasers of the Product are entitled to interest in an amount according to proof.

**VII. SECOND CAUSE OF ACTION:  
VIOLATIONS OF CAL. BUS. & PROF. CODE §§ 17500 ET SEQ.**

74. Plaintiff re-alleges and incorporates by reference the allegations set forth in each of the preceding paragraphs of this Complaint.

33. In violation of California Bus. & Prof. Code §§ 17500, *et seq.*, Defendant disseminated, or caused to be disseminated, the deceptive Product labeling and advertising representations that misleadingly claim that the Product is "All Natural," when in fact, it is not because it contains GMOs in the form of corn and/or corn derivatives.

75. Defendant's Product's labeling and advertising representations are misleading because they cannot support the claims that the Product is "All Natural."

76. Defendant's labeling and advertising representations for the Product is by their very nature unfair, deceptive and/or unlawful within the meaning of California Bus. & Prof. Code §§ 17500 *et seq.*

77. The representations were likely to deceive reasonable consumers and did deceive reasonable consumers such as Plaintiff and members of the Class.

78. In making and disseminating the deceptive representations alleged herein, Defendant knew or should have known that the representations were misleading, and acted in violation of California's Bus. & Prof. Code §§ 17500 *et seq.*

79. As a direct and proximate result of Defendant's wrongful conduct, Plaintiff and purchasers of the Product has suffered substantial monetary and non-monetary damage.

1           80. Pursuant to Bus. & Prof. Code § 17535, Plaintiff, on behalf of herself and other  
 2 purchasers of the Product, seeks an order of this Court requiring Defendant to restore to  
 3 purchasers of the Product all monies that may have been acquired by Defendant as a result of  
 4 such unfair, deceptive and/or unlawful acts or practices.  
 5

6           81. As a result of Defendant's violations of the FAL, Plaintiff and purchasers of the  
 7 Product are entitled to restitution for out-of-pocket expenses and economic harm.  
 8

9           82. Pursuant to Civil Code § 3287(a), Plaintiff and purchasers of the Product are  
 10 further entitled to pre-judgment interest as a direct and proximate result of Defendant's  
 11 wrongful conduct.

12           83. The amount on which interest is to be calculated is a sum certain and capable of  
 13 calculation, and Plaintiff and purchasers of the Product are entitled to interest in an amount  
 14 according to proof.  
 15

16                                   **VIII. THIRD CAUSE OF ACTION:**  
 17                                   **FOR VIOLATIONS OF CAL. CIV. CODE §§ 1750 ET SEQ.**

18           84. Plaintiff re-alleges and incorporates by reference the allegations set forth in each  
 19 of the preceding paragraphs of this Complaint.

20           85. This cause of action is brought pursuant to Cal. Civ. Code §§ 1750 *et seq.*

21           86. Plaintiff and each California purchaser of the Product are "consumers" within the  
 22 meaning of Civil Code §1761(d).

23           87. The purchases of the Product by Plaintiff and California purchasers were and are  
 24 "transactions" within the meaning of Civil Code § 1761(e).  
 25

26           88. Defendant's "All Natural" statement prominently displayed on the Product's  
 27 packaging and/or labeling is false, misleading, and likely to deceive reasonable consumers, such  
 28

1 as Plaintiff and members of the Class, because the Product is not "All Natural," due to the  
2 presence of GMOs in the form of corn and/or corn derivatives.

3  
4 89. Defendant's marketing, labeling, advertising and sales of the Product within  
5 California, therefore violated the CLRA in at least the following respects:

- 6 a. In violation of Civil Code § 1770(a)(5), GRUMA represented that the  
7 Product has characteristics, ingredients, uses, and benefits which it does not  
8 have; and  
9  
10 b. In violation of Civil Code § 1770(a)(7), GRUMA represented that the  
11 Product is of a particular standard, quality, or grade, which it is not.  
12  
13 c. In violation of Civil Code § 1770(a)(9), GRUMA advertised the Product with  
14 an intent not to sell the Product as advertised;  
15  
16 d. In violation of Civil Code § 1770(a)(14), GRUMA represented that the  
17 purchase of the Product confers or involves rights, remedies, or obligations  
18 which it does not have or involve, or which are prohibited by law; and  
19  
20 e. In violation of Civil Code § 1770(a)(16), GRUMA represented that the  
21 subject of the sale of the Product has been supplied in accordance with a  
22 previous representation when it has not.

23 90. Plaintiff seeks and is entitled to equitable relief in the form of an order requiring  
24 Defendant to make full restitution to California purchasers of the Product of all monies  
25 wrongfully obtained as a result of the conduct described above.

26 91. Plaintiff, on or about October 22, 2012, by and through counsel, notified  
27 Defendant in writing of the particular violations of Section 1770 of the CLRA, and demanded  
28



1 that it take certain corrective actions within the period prescribed by the CLRA for such  
2 demands.

3 92. However, Defendant failed to adequately respond to the demands for corrective  
4 action within the time prescribed by the CLRA.

5 93. Therefore, Plaintiff requests statutory and actual damages, as well as punitive  
6 damages, interest and attorneys' fees as authorized by Section 1780(a) of the CLRA.

7 94. In addition to an award of damages, Plaintiff seeks and is entitled to, pursuant to  
8 Section 1780(a)(2) of the CLRA, an order for the equitable relief described above, as well as  
9 costs, attorney's fees and any other relief which the Court deems proper.  
10

11 **IX. PRAYER FOR RELIEF**

12 **WHEREFORE**, Plaintiff, individually, and on behalf of all others similarly situated,  
13 prays for relief pursuant to each cause of action set forth in this Complaint as follows:  
14

15 1. For an order certifying that the action may be maintained as a class action,  
16 certifying Plaintiff as representative of the Class, and designating her attorneys as Class counsel.  
17

18 2. For an award of equitable relief as follows:

19 (a) Enjoining Defendant from making any claims for the Product found to violate the  
20 UCL, FAL, or CLRA as set forth above;

21 (b) Requiring Defendant to make full restitution of all monies wrongfully obtained  
22 as a result of the conduct described in this Complaint; and

23 3. For an award of attorney's fees pursuant to, *inter alia*, § 1780(d) of the CLRA  
24 and Code of Civil Procedure §1021.5.  
25

26 4. For actual damages in an amount to be determined at trial;  
27  
28

7. For pre- and post-judgment interest on any amounts awarded; and

**X. JURY DEMAND**

**Respectfully Submitted,**

By:   
Benjamin M. Lopatin, Esq.

(415) 692-6607 (fax)

CLASS ACTION COMPLAINT  
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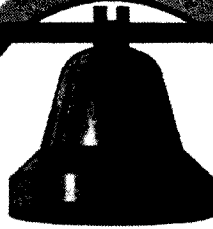
# **EXHIBIT**

**1**

**ALL NATURAL**  
0g TRANS FAT PER SERVING

**Fiesta  
Size**

AUTHENTIC MEXICAN TORTILLA CHIPS



**mission®**

**TORTILLA TRIANGLES**

RESTAURANT STYLE





### Double Cheese Crab Dip

- 1 cup Mission® Salsa
- 1 teaspoon chili powder
- 1 package (8 oz.) cream cheese, softened
- 1 can (8 oz.) refrigerated, pasteurized crab meat
- 1 cup shredded cheddar cheese (4 oz.)
- 1/2 cup sliced black olives
- Fresh tortilla for garnish
- Mission® Tortilla Triangles

Mix salsa and chili powder. Spread cream cheese on 9-inch pie plate. Top with salsa mixture, crab meat, cheddar cheese and olives. Bake at 350°F for 15 minutes.



**Nutrition Facts**Serving Size 1 oz (28g/about 10 chips)  
Servings Per Package 20**Amount Per Serving****Calories 140**      **Calories from Fat 70**

% Daily Value\*

**Total Fat 7g**      **11%****Saturated Fat 3g**      **15%****Trans Fat 0g****Cholesterol 0mg**      **0%****Sodium 150mg**      **6%****Total Carbohydrate 17g**      **6%****Dietary Fiber 1g**      **4%****Sugars 0g****Protein 2g****Vitamin A**      **0%** • **Vitamin C**      **0%****Calcium**      **2%** • **Iron**      **2%**

\*Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:

		Calories:	2,000	2,500
Total Fat	Less Than	65 g	80 g	
Saturated Fat	Less Than	20 g	25 g	
Cholesterol	Less Than	300 mg	300 mg	
Sodium	Less Than	2,400 mg	2,400 mg	
Total Carbohydrate		300 g	375 g	
Dietary Fiber		25 g	30 g	

Calories per gram:

Fat 9 • Carbohydrate 4 • Protein 4

**INGREDIENTS:** GROUND CORN TREATED WITH LIME, WATER, VEGETABLE OIL (CONTAINS ONE OR MORE OF THE FOLLOWING: COTTONSEED OIL, CORN OIL, PALM OIL), SALT.

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MISSION 20 OZ TRIANGLES BROWN BAG



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Mission Tortilla Triangles!  
Enjoy!

**Tex-Mex Fiesta Bake**

1 lb. lean ground beef  
Salt and pepper, to taste  
Hot sauce  
1 large red onion, chopped  
1 can (16 oz.) refried beans  
1 can (4 oz.) green chiles, chopped  
2 cups cheddar cheese, shredded  
1 cup Monterey Jack cheese,  
shredded  
3/4 cup taco sauce  
1 cup ripe black olives, pitted  
1 cup sour cream  
1 large red or green bell pepper,  
chopped  
Mission® Tortilla Triangles

Cook ground beef until brown,  
drain fat and season to taste. Add 2  
to 3 drops of hot sauce and onion.  
Spread beans in a large 9" x 13"  
rectangular ovenproof dish and top  
with cooked meat. Sprinkle with  
green chiles, both cheeses and taco  
sauce. Bake for 20 to 25 minutes in  
a 400° F oven.  
Remove from oven and garnish  
with black olives, sour cream and  
bell pepper. Serve with Mission  
Tortilla Triangles around the edges  
of the dish. Serves 10 - 12.

**Mission® Mexican Beef  
Casserole**

1 lb. ground beef  
1 large onion, diced  
1 medium tomato  
1 can (10 3/4 oz.) cream of  
mushroom soup  
8-10 oz. processed cheese, cubed  
1 can (7 oz.) diced green chiles,  
drained  
1 can (12 oz.) evaporated milk  
Mission® Tortilla Triangles

In a medium skillet, sauté meat,  
onion, and tomato. In a saucepan,  
combine soup, cheese, chiles and  
milk. Heat until cheese melts.  
Layer Mission Tortilla Triangles in  
bottom of greased casserole dish.  
Add meat mixture. Top with melted  
cheese mixture. Bake at 350° F for  
approximately 45 minutes.  
Serves 6.

For great recipe  
ideas, questions &  
comments, visit:

[missionmenus.com](http://missionmenus.com)





### Crunchy Chicken Dinner

2 cups Mission Tortilla Triangles  
crushed  
1/4 tsp. garlic salt  
1/8 tsp. pepper, freshly ground  
1/4 tsp. oregano  
1/8 tsp. paprika  
2 1/2 - 3 lbs. chicken pieces  
for frying

Place crushed Mission Tortilla Triangles, garlic salt, pepper, oregano and paprika in a large plastic bag. Shake well and set aside. Rinse chicken pieces thoroughly in warm water. Coat by placing pieces, one at a time, in the tortilla mixture bag and shaking well until covered. Place chicken, skin side up, in a lightly greased 19